

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

UNITED STATES OF AMERICA,)
Plaintiff,)
vs.) CASE NO. DNCW3:13CR116-004
Financial Litigation Unit)
KIMBERLY ARNELL CURETON,)
Defendant,)
and)
BLYTHE CONSTRUCTION INC.,)
Garnishee.)

ORDER OF GARNISHMENT

THIS MATTER is before the Court on the Answer of Blythe Construction Inc. as Garnishee. Judgment in the criminal case was filed on March 30, 2015 (Doc. No. 87). As part of that Judgment, the Defendant was ordered to pay an assessment of \$100.00 and restitution of \$100,195.26 to the victims of the crime. *Id.*

On November 1, 2021, the Court entered a Writ of Continuing Garnishment (Doc. No. 119) to the Garnishee Blythe Construction Inc. The Garnishee was served with the Writ on November 8, 2021. Defendant was served with the Writ on May 31, 2022. The Garnishee filed an Answer on December 9, 2021 (Doc. No. 122) stating that at the time of the service of the Writ, it had in its custody, control or possession property or funds owned by the Defendant, including non-exempt, disposable earnings. The United States has informed the Court (Doc. No. 124) that Defendant is in bankruptcy and it will voluntarily dismiss the Writ of Garnishment. The United States first seeks a final Order of Garnishment to provide the legal authority for applying money to restitution that was collected and remitted to the Court before the United States became aware of the bankruptcy. *Id.* The United States retains authority to collect criminal restitution debts despite

the automatic stay in bankruptcy. *See United States v. Troxler Hosiery Co., Inc.*, 41 B.R. 457, 460 (M.D.N.C. 1984); *affirmed*, 796 F.2d 723 (4th Cir. 1986). It is therefore proper to enter an Order of Garnishment for the funds that have already been collected.

IT IS THEREFORE ORDERED that an Order of Garnishment is hereby ENTERED in the amount of \$92,687.78 computed through October 29, 2021. The Garnishee shall pay the United States up to twenty-five percent of the Defendant's net earnings which remain after all deductions required by law have been withheld and which have been collected through the date of entry of this Order.

Payments should be made payable to the United States Clerk of Court and mailed to:

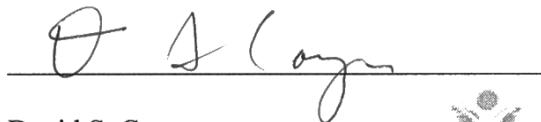
Clerk of the United States District Court
401 West Trade Street
Charlotte, North Carolina 28202

In order to ensure that each payment is credited properly, the following should be included on each check: Court Number DNCW3:13CR116-004.

The Plaintiff will submit this debt to the Treasury for inclusion in the Treasury Offset Program. Under this program, any federal payment the Defendant would normally receive may be offset and applied to this debt.

SO ORDERED.

Signed: June 28, 2022



David S. Cayer
United States Magistrate Judge
